

SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

RULES OF COURT  
RULE CHANGES EFFECTIVE 7-1-10

**LOCAL RULE 2 LAW AND MOTION** (*Effective 7-1-89, as amended 7-1-03, as amended 7-1-04, as amended 7-1-05, as amended 7-1-10*)

2.16 COMPROMISE OF MINOR'S OR INCOMPETENT'S CLAIM (*Effective 7-1-89, as amended 7-1-02, as amended 7-1-04, as amended 7-1-10*)

(a) ***Pursuant to CRC 7.950, a*** petition for court approval of a compromise or covenant not to sue pursuant to CCP §372 or Prob §§2504 or 3500 shall be on the form prescribed by the Judicial Council. ~~The petition shall be verified by the petitioner and it shall contain:~~

- ~~1.—The name, birth date, age and sex of the minor or incompetent person;~~
- ~~2.—The nature and extent of the injury giving rise to the claim with sufficient particularity to inform the Court whether such injury is permanent or temporary;~~
- ~~3.—The original or a photocopy of all doctor's reports containing a diagnosis and prognosis of the injury, and a current report of present condition;~~
- ~~4.—The facts or events and circumstances out of which the claim or injury arose, including the time, place and persons involved and a copy of any existing accident investigation report of any police agency.~~
- ~~5.—A full disclosure of all information concerning the reasonableness of the proposed compromise or covenant not to sue, including the amounts if any, paid or to be paid to other claimants;~~
- ~~6.—The original or a photocopy of each bill is not required. However, an itemized summary of the bills is required.~~
- ~~7.—If the money is to be deposited in an account subject to withdrawal only upon Order of the Court, the name and address of the depository, and~~
- ~~8.—The amount of attorney fees requested. Where the fees requested exceed the amount provided by Butte County LR §2.17, a written request shall be submitted which will include: [1] an itemized statement of the services rendered by the attorney; [2] the sum requested for each item of service, together with the total amount requested for such services (and not merely "reasonable fees"); and, [3] a statement justifying exceeding the normal amount. In determining such fees, the Court shall consider the difficulty of the tasks performed and the reasonable value of time expended.~~

(b) ***An expedited petition for court approval of a compromise or covenant not to sue pursuant to CCP §372 or Prob §§2504 or 3500 shall be determined and authorized by the Court pursuant to CRC 7.950.5. A party requiring a hearing under CRC 7.950.5(c) may contact the clerk at (530) 532-7017 for a hearing date and time.***

(~~bc~~) A petition for withdrawal of money deposited in a bank, trust company or savings and loan association on behalf of a minor or incompetent person shall be verified by the guardian, conservator or trustee and, in the case of a competent minor, by such minor if [s]he is at least twelve (12) years of age. An attorney's services relating to such petition are usually included in any fees awarded to the petitioner's attorney at the settlement of the action and, except as otherwise ordered by the Court for good cause shown, no attorney fees shall be charged by such attorney or approved by the Court for such services. (*Effective 7-1-89, as amended 7-1-02, as amended 7-1-04, as amended 7-1-10*)

2.17 ATTORNEY FEES IN CASES INVOLVING MINORS OR INCOMPETENT PERSONS (*Effective 7-1-89, as amended 7-1-02, as amended 7-1-10*)

(a) FEES. In cases compromised under CCP §372 or PROB §3500, the ***Court shall approve and allow*** attorney fees ***as prescribed in CRC 7.955.*** ~~awarded by the Court shall, under normal circumstances, not exceed the following amounts~~

- ~~1.—25 percent of the amount recovered when the case is settled before trial.~~
- ~~2.—33 1/3 percent of the amount recovered when the case is settled during trial after a substantial part of plaintiff's case has been introduced or after judgment.~~
- ~~3.—Not more than the fees prescribed in subdivision (a)(2) when the case is settled between the times specified in subdivisions (a)(1) and (a)(2).~~
- ~~4.—40 percent of the amount recovered when the case is settled after the filing of respondent's brief on appeal.~~
- ~~5.—An amount less than (a)(1), which shall reflect actual work done, when the recovery is under an uninsured motorist clause in an insurance policy.~~

~~(b) —COMPUTATION OF FEES In computing fees, parents claiming reimbursement for expenses shall, except in cases of hardship, pay their proportionate share of the attorney fees. Expenses of litigation to be reimbursed shall not be included in the "amount recovered" for the purpose of fixing fees. Such expenses of litigation shall be separately itemized.~~

(~~eb~~) COURT APPROVAL OF EMPLOYMENT CONTRACT--cf. PROB. §2644. Except for good cause shown, no contract of employment providing for attorney fees shall be approved by the Court in advance. Under no circumstances shall the contract be considered for approval in advance without the client's appearance on the application for court approval. (*Effective 7-1-89, as amended 7-1-02, as amended 7-1-10*)

**LOCAL RULE 3                      DELAY REDUCTION RULES**      *(Effective 7-1-92, Title Amended 1-1-99, as amended 7-1-02, as amended 7-1-04, as amended 1-1-07, as amended 1-1-08, as amended 7-1-08, as amended 7-1-10)*

**3.9      CASE MANAGEMENT CONFERENCE**      *(Effective 7-1-92, as amended 7-1-02, renumbered 1-1-04, as amended 7-1-04, as amended 1-1-07)*

**(a)      FILING OF COMPLAINT**

1.      Upon filing a complaint, the plaintiff shall receive the following from the Clerk:

A.      Notice of Assignment and Case Management Conference. (The Case Management Conference will be set within 180 days of the filing date of the original complaint for all cases except for limited general civil. Limited general civil (Plan 4) cases will be set for a Case Management Conference within 120 days of filing of the initial complaint);

B.      A blank Case Management Statement [Judicial Council Form CM-110]; and

C.      An Alternative Dispute Resolution Package.

2.      Any cross-complaint naming new parties shall also be served with a blank Case Management Statement, the notice of Case Management Conference, [Form: RUL-3-DR.030], and an Alternative Dispute Resolution Package.

3.      If a case is transferred from another jurisdiction after a responsive pleading has been filed, the Case Management Conference will be set within forty-five (45) days from the date of receipt. If no responsive pleading has been filed, the Case Management Conference will be set within ninety (90) days from the date of receipt. In all other particulars, the plaintiff in a transfer case will receive the same information and items as described in LR §3.8(a) 1.

**(b)      NOTICE**

At the time of serving the Summons and Complaint (and a cross-complaint upon a new party), the responding party shall be served with the Notice of Assignment and Case Management Conference, a blank Case Management Statement by the plaintiff (or cross-complainant) and an Alternative Dispute Resolution Package. Plaintiff/Cross-Complainant shall provide Proof of Service and file with the Court.

**(c)      CASE MANAGEMENT STATEMENT (CMS)**

Each appearing party shall file and serve the completed Case Management Statement no later than fifteen (15) calendar days before the Case Management Conference. Subsequent Case Management Statements may be required at the discretion of the Court for further evaluation. Additional Case Management Statements shall be required for further evaluation of the case at all subsequent Case Management Conferences if not excused by the Court.

**(d)      CASE MANAGEMENT CONFERENCE.** Counsel for each appearing party shall attend the Case Management Conference, or shall have other counsel appear on his/her behalf or may appear telephonically. Counsel or counsel appearing for counsel of record, shall be prepared to discuss all matters enumerated in LR §3.8(d)1.A. - 1.H. Counsel or counsel appearing on behalf of counsel of record, shall be subject to sanctions if not fully

prepared to address items 3.8(d)1.A - 1.H. on behalf of the party for whom they are appearing.

1. At the Case Management Conference, the Court shall make all appropriate pretrial orders pursuant to CRC §3.720-3.730 including, but not limited to:

A. CASE EVALUATION: all civil cases subject to this rule shall be evaluated and designated by the Court pursuant to LR §3.7. The assigned judge will decide which case plan is appropriate based on the Case Management Statements. The assigned judge may redesignate any case at any time after a hearing set for that purpose.

B. DISMISS DEFENDANTS, WITH THE EXCEPTION OF DOE DEFENDANTS. Orders dismissing defendants, fictitious cross-defendants, served and unserved defendants and cross-defendants who have not appeared and against who no default has been taken, unless the Court for good cause otherwise orders and sets dates by which they shall be served.

C. ALTERNATIVE DISPUTE RESOLUTION. The Court may make Orders on stipulation to binding arbitration, judicial arbitration, and set the date for completion of the arbitration and filing of the award.

The Court shall examine and consider Alternative Dispute Resolution programs or procedures available to the parties, including conciliation and mediation, and shall require the parties to attempt such alternative means of resolving the dispute whenever feasible and whenever doing so may expedite the resolution of the dispute.

Pursuant to LR §5, CCP §1775 et.seq. and CRC ~~§3.870~~ **3.891** through ~~§3.878~~ **3.892**, the Court shall determine the case's amenability to court-ordered mediation.

D. TRANSFER. Orders transferring an unlimited case to a limited case on stipulation or on the Court's determination that it is reasonably probable that the amount in controversy will not exceed \$25,000.

E. BIFURCATION, SEVERANCE, CONSOLIDATION. Orders consolidating (for all or limited purposes), bifurcating, or severing issues or causes of action.

F. DISCOVERY AND LAW AND MOTION. Orders scheduling dates by which discovery and law and motion matters must be completed.

G. FURTHER CASE MANAGEMENT CONFERENCE. At the Case Management Conference, the Judge may order a further Conference wherein all counsel of record are required to personally attend.

H. TRIAL DATE, TRIAL READINESS CONFERENCE DATE. At the Case Management Conference, the Court will ordinarily set the matter for Trial and set a Trial Readiness Conference. Counsel appearing should be prepared with trial counsel's available dates.

04, as amended 1-1-07, as amended 7-1-08, as amended 7-1-10)

- (a) This Court adopts the policy that good faith efforts to settle civil proceedings are an essential part of the judicial process, and that good faith efforts to settle shall be made in conformity with CRC §3.1380.

- (b) **AUTHORITY TO SETTLE.**

- 1. Each person required to attend the settlement conference, must have full authority to make decisions and negotiate concerning the case for which the settlement conference is scheduled.

- 2. The attorney[s] for all parties appearing in the action who attend the conference, must be intimately familiar with the pertinent available evidence involving both liability and damages. The attorney[s] assigned to try the case shall be present at the settlement conference, unless good cause for his or her absence is shown.

- 3. All counsel shall ascertain whether there are claims or liens which may affect a settlement, and if so, request in writing the claimants or lienholders, or their representatives, to attend the settlement conference. A copy of such written request shall be mailed to the Court.

- (c) **SETTLEMENT CONFERENCE STATEMENTS AND SUPPORTING DOCUMENTS.**

- 1. Not less than five (5) court days prior to the scheduled settlement conference, each party shall file and serve the Settlement Conference Statement.

The Settlement Conference Statement shall be in writing and shall describe the case and all relevant legal issues, factual issues, and contentions. The statement and supporting material must be sufficiently detailed to enable the settlement conference judge or the pro tem judges to conduct a meaningful settlement conference.

***Parties may use the local court form entitled Settlement Conference Statement [RUL-3-DR.040].***

- 2. The attorney[s] for each party or each party representing themselves claiming damages in a personal injury action shall bring to the conference all reports and records of any and all examining doctors, shall include in the settlement conference statement a list of all special damages claimed, and shall supply corroborating evidence, to be available for examination by the settlement conference judge.

In a personal injury action, the special damages for each plaintiff should be up-to-date, listed separately, totaled, and categorized as health care (including medical, hospital, ambulance, and drugs) and loss of earnings, if any.

Opposing counsel shall bring with them copies of all reports and records of all examining doctors employed by them or their insurance carrier[s], if any, who examined plaintiff[s], to be available for consideration by the settlement conference judge.

3. All counsel shall organize in advance and bring to the conference such medical reports and records and any depositions (with relevant pages premarked), photographs, books, records, diagrams, maps, bills, contracts, memoranda, and all other documents pertinent to settlement of the case for examination by the settlement conference judge.

(d) POWERS OF THE COURT AT SETTLEMENT CONFERENCES.

1. The settlement conference judge may accept for filing the written stipulations by the parties, but shall not, except for good cause shown, change the date set for trial or hear and rule on law and motion matters.

2. In all conferences resulting in settlement of a case, the terms thereof may be placed upon the record with a reporter present or, if one is not available, by minute order. Enforcement of the settlement shall be pursuant to CCP §664.6.

3. Requests for continuance of the date of the initial settlement conference shall be addressed to the Court. However, the settlement conference judge or those conducting the settlement conference may, at the conclusion of the conference, continue it to any other convenient date or time prior to the date set for trial.

(e) EXCUSES FROM ATTENDANCE; TELEPHONE AVAILABILITY.

1. Any application to the Court to excuse attendance of any person whose attendance is required by CRC §3.1380 shall be made to the assigned judge not less than five (5) days before the date set for the settlement conference.

2. Any person whose presence at a settlement conference is required by CRC §3.1380 may be excused by order of the Court for good cause shown but, if so excused, shall be and remain immediately available for telephone communication with counsel and the Court at the time set for and throughout the settlement conference.

(f) NOTICE TO COURT UPON SETTLEMENT.

Should any case set for a settlement conference settle or otherwise terminate before the date of any conference, hearing, or trial, the attorneys for the parties shall immediately notify the clerk pursuant to CRC §3.1385.

Upon the settlement of a case at any time following the settlement conference and before the trial date, each party seeking any affirmative relief in the action shall immediately notify the clerk, particularly if a further settlement conference is calendared.

(g) MANDATORY MEET AND CONFER

Representatives of each party, with full authority to settle, shall meet in person or confer by telephone no less than 10 days before the settlement conference in a good faith attempt to settle the case.

A good faith offer and a good faith demand shall be exchanged. Failure to make a good faith attempt to settle will result in the Court considering sanctions. *(Effective 7-1-92, as amended 7-1-02, renumbered 1-1-04, as amended 1-1-07, as amended 7-1-08, as amended 7-1-10)*

**LOCAL RULE 6 ALTERNATIVE DISPUTE RESOLUTION** (*Effective 1-1-06, as amended 1-1-07, as amended 1-1-10, as amended 7-1-10*)

**6.0 APPLICABLE LAW AND RULES**

This rule covers judicial arbitration and civil action mediation. Counsel should ensure compliance with all Trial Court Delay Reduction rules. It does not apply to contractual arbitration pursuant to Code of Civil Procedure section 1280 *et seq.*

Counsel and neutrals utilizing these procedures must familiarize themselves with the applicable statutes and California Rules of Court. For judicial arbitration such provisions are Code of Civil Procedure sections 1141.10 to 1141.31 and California Rules of Court, Rules ~~1600 through 1618~~ **3.810 through 3.829**; for mediation such provisions are Code of Civil Procedure section 1775 through section 1775.16 and California Rules of Court, Rules 3.870 through 3.878.

As provided by Rule ~~1601~~ **3.811** of the California Rules of Court, the following actions are exempt from Alternative Dispute Resolution (ADR):

- a. Actions that include a prayer for equitable relief that is not frivolous or insubstantial.
- b. Class actions.
- c. Small Claims actions or trial de novo on appeal.
- d. Unlawful Detainer proceedings.
- e. Any action found by the Court to be not amenable to arbitration or mediation on the ground that arbitration or mediation would not reduce the probable time and expense necessary to resolve the litigation. Upon its own motion or by any party, the Court may determine whether the action is or should be exempt from arbitration or mediation.

In addition to those actions exempted from arbitration by Rule ~~1601~~ **3.811** and all limited civil cases in which no jury trial is demanded, cases with an estimated time for trial of less than two days, shall be excluded from mandatory arbitration or mediation. Any case, however, may be arbitrated or mediated upon written stipulation of the parties, upon written request of the plaintiff, or upon order of the Court. When no preference is expressed by litigants or there is no consensus to the selected ADR process, the Court may make a mandatory referral to mediation.

- f. Pursuant to Code of Civil Procedure section 1775.4, an action ordered into arbitration may not be ordered into mediation and an action that has been ordered into mediation may not be ordered into arbitration. If an action has previously been referred to the Court

ADR program and an ADR hearing was scheduled, the action cannot be ordered/referred again.

g. As defined by CRC ~~244~~ **3.735**, a short cause action is exempted from ADR. (*Effective 1/1/06, as amended 7-1-10*)

## **RULES APPLICABLE TO BOTH ARBITRATION AND MEDIATION**

### **6.1 COURT FILE**

The Court's file shall remain in the possession of the Clerk of the Court. Parties are to provide copies of any court pleadings or other materials to the neutral as they deem appropriate. (*Effective 1/1/06*)

### **6.2 ADR ADMINISTRATOR**

Management of Superior Court judicial arbitration and mediation is conducted generally under the supervision of the ADR Administrator. (*Effective 1/1/06*)

### **6.3 ADR ORDERS AND FURTHER STATUS CONFERENCE**

The Court shall determine on a case-by-case basis the suitability of a particular case for mediation or arbitration. The Court shall confer with counsel as to whether mediation or arbitration offers the better likelihood of final disposition of the case without further proceedings. Counsel are encouraged to discuss the various ADR processes with their clients and explain the confidentiality and non-binding nature of the selected ADR process. Whenever the Court orders arbitration or mediation, it will set the dates for completion of such arbitration or mediation and a further status conference following such completion dates. (*Effective 1/1/2006*)

### **6.4 SELECTION OF ADR NEUTRAL** (*Effective 1/1/06, as amended 1-1-07, as amended 7-1-10*)

When a case is referred to arbitration or mediation, counsel/parties shall proceed immediately to the ADR Administrator to complete the ADR forms prior to selecting an arbitrator or mediator from the court's panel. The ADR Administrator shall maintain a panel of arbitrators and **a two-tiered panel of** mediators. Selection of the arbitrator ~~or mediator~~ shall be by stipulation or in the event there is no stipulation, assigned by the ADR Administrator. ***Parties may use the local court form entitled Stipulation to Participate in Alternative Dispute Resolution (ADR) [RUL-6-ADR.020]. Selection of a mediator from the "party select" panel shall be by stipulation. For parties wishing to utilize the "random select" panel, a mediator shall be randomly assigned by the ADR administrator.***

The parties may exercise their right to select an arbitrator or mediator who is not on the court's panel (CRC, Rules 3.815, ~~3.873~~ **3.893**); it shall be the responsibility of plaintiff's counsel to immediately notify the ADR Administrator that the parties will not require the services of the arbitrator or mediator previously appointed or selected from the Court's panel.



In limited civil cases, the ADR Administrator will randomly assign an arbitrator or mediator.

When a case is referred to ADR without an appearance, plaintiff or plaintiff's counsel must contact the ADR Administrator to initiate the ADR process. Upon completion of the ADR forms, selection from the Court ADR panel will be made (*Effective 1/1/06, as amended 1-1-07*)

## 6.5 ADR REPORTS

(a) Arbitration. In arbitrated cases, the arbitrator shall file with the ADR Administrator and serve on each party the Award of Arbitration within five (5) court days after the arbitration hearing.

(b) Mediation. In mediated cases, the mediator shall file with the ADR Administrator, and serve on the parties within ten (10) days after the completion date for the mediation set by the Court, a Statement of Agreement or Non-Agreement (Judicial Council Form ADR-100).

(c) Information Form. In both mediated and arbitrated cases, within ten (10) days after completion of the arbitration or mediation, the parties shall complete and file with the ADR Administrator an ADR Information Form (Judicial Council Form ADR-101) or follow-up survey form approved by the Judicial Council or the Butte County Superior Court. (*Effective 1/1/06*)

## 6.6 NOTICE OF SETTLEMENT

~~Reference~~ **Pursuant to** California Rules of Court, Rule 3.1385-~~If~~ **if** a case is settled, plaintiff or the plaintiff's counsel must immediately serve a copy of written notice of the settlement or other disposition on any ADR Neutral involved in the case and the ADR Administrator. The plaintiff must also immediately give oral notice to all of the above if a hearing, conference, or trial is imminent. If the plaintiff or other party seeking affirmative relief does not notify the court-connected ADR neutral involved in the case of a settlement at least two (2) days before a scheduled hearing or session, the Court may order the parties to compensate the neutral, up to \$300.00.

An Application and Motion for Compensation must be filed by the neutral within five (5) court days of the scheduled hearing or session. If a dismissal has been filed, the Court maintains jurisdiction to hear the Application and Motion for Compensation. (*Effective 1/1/06, as amended 7-1-10*)

## 6.7 VACANCY AND CHALLENGE OF ADR NEUTRAL

Any party may request disqualification of an arbitrator or mediator pursuant to Code of Civil Procedure section 170.1 et seq. The request shall be filed within five (5) days of the designation of the arbitrator or mediator. A copy of such challenge shall be sent to the ADR Administrator. If any arbitrator or mediator should resign, die, withdraw, be disqualified, refuse or be unable to perform the duties of an arbitrator or mediator, the

parties shall within five (5) days after receiving notice of such event inform the ADR Administrator who will then return the case to the top of the ADR hearing list. The ADR Administrator shall appoint a new arbitrator or mediator within ten (10) days thereafter and inform the parties. *(Effective 1/1/06)*

## 6.8 COMPENSATION TO NEUTRAL

***The parties may exercise their right to select an arbitrator or mediator who is not on the Court's panel (CRC, Rules 3.815, 3.893). Compensation will be negotiated between the parties and the neutral and will be the responsibility of the parties.***

Arbitration – Neutrals will provide up to three (3) hours of arbitration hearing time per case. For any additional hours, compensation will be negotiated between the parties and neutral and will be the responsibility of the parties. The Court shall compensate the neutral up to \$150 dollars upon submission of a claim form. Any claim for compensation shall be submitted within 60 days of the Arbitration hearing.

Mediation – Neutrals ***on the “random select” panel*** will provide, ~~pro bono~~, up to three (3) hours of mediation per case ***free of charge. Any preparation and case scheduling for the mediation that is necessary will be included as part of the three (3) pro bono hours.*** For any additional hours, compensation will be ~~negotiated between the parties and neutral and will be~~ the responsibility of the parties.

***Mediators on the “party select” panel shall confer with the parties and agree on the fees and expenses for the mediation, which will be the responsibility of the parties.***  
*(Effective 1/1/06, as amended 7-1-10)*

## RULES APPLICABLE TO ARBITRATION

### 6.9 INITIATION OF ARBITRATION

Arbitration can be initiated by court order at any time after the filing of the complaint and before the first case management conference in any of three (3) ways: (a) Upon timely written election of the plaintiff, where the plaintiff agrees that the award per plaintiff shall not exceed \$50,000; (b) Upon timely stipulation of the parties; the stipulation need not designate the upper limit of the potential award and any amount in controversy may be submitted; (c) Where the judge determines the controversy is amenable to arbitration pursuant to Code of Civil Procedure section 1141.10 *et seq.* Except where the case is in arbitration per (a) above, the arbitrator's award is not limited to \$50,000 but may be for any amount. *(Effective 1/1/06)*

### 6.10 WITHDRAWAL FROM ARBITRATION

A case submitted to arbitration may only be withdrawn before hearing by stipulation and court order or court order on noticed motion heard in the department where the case is pending *(Effective 1/1/06)*

### 6.11 PRE-HEARING CONFERENCE

If the arbitrator finds it helpful to confer with the attorneys informally before the hearing begins, a pre-hearing conference should be convened. Attendees at such hearing should be prepared to discuss: (1) time estimate for hearing, (2) documentary evidence to be offered, (3) stipulations, (4) issues to be determined, and (5) depositions to be used. This conference may be conducted by telephone if deemed appropriate by the arbitrator.  
(Effective 1/1/06)

**6.12 SETTING TIME AND PLACE OF ARBITRATION HEARING;  
APPEARANCES REQUIRED** (Effective 1/1/06, as amended 1-1-07)

Consistent with CRC, Rule 3.817, the Arbitrator shall set the time and place for the hearing after consultation with counsel for the parties. However, the arbitrator must ensure that the time for the hearing is set so as to allow the completion of the arbitration by the date ordered by the Court. Normally the arbitration should be held at the offices of the arbitrator. However, in appropriate circumstances the arbitrator may order that the hearing be held at the offices of one of the parties' counsel.

Appearance by counsel, or party if not represented by counsel, is required at the arbitration session. Non-appearance of counsel or party shall subject counsel or party, after notice and an opportunity to be heard, to monetary sanctions, including, but not limited to, suitable compensation to the arbitrator and to the parties who did appear at the arbitration, plus attorney's fees to make the request for sanctions. (Effective 1/1/06, as amended 1-1-07)

**6.13 CONTINUANCE OF HEARING** (Effective 1/1/06, as amended 1-1-07)

The parties may stipulate to a continuance of the hearing as provided for in CRC, Rule 3.812. In no event shall the hearing be continued beyond the date ordered by the Court for completion of the arbitration except by order of the Court. (Effective 1/1/06, as amended 1-1-07)

**6.14 RESERVED**

**6.15 DESIGNATION OF PARTIES AND AMOUNTS IN AWARD**

Consistent with CRC, Rule 3.825, the arbitrator's award must be filed within ten (10) days after the conclusion of the arbitration hearing. (Effective 1/1/06, as amended 1-1-07)

**6.16 DISPOSITION OF EXHIBITS**

Documents, statements, and exhibits received in evidence during the hearing should be returned after the award to the party who offered them. Many arbitrators request that the parties offer copies in evidence so that the arbitrator can discard them after the award has been made. No original exhibits should be destroyed by the arbitrator, since they may be required in the event of a trial de novo. (Effective 1/1/06)

**RULES APPLICABLE TO MEDIATION**

**MEDIATION PROCEDURES**

## 6.17 APPEARANCES REQUIRED AT MEDIATION

The parties shall personally appear at the first mediation session, and at any subsequent session unless excused by the mediator. When the party is other than a natural person, it shall appear by a representative with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or legislative body, by a representative with authority to recommend such an agreement. Each party is entitled to have counsel present at all mediation sessions that concern it, and such counsel and an insurance representative of a covered party shall also be present or available at such sessions, unless excused by the mediator. *(Effective 1/1/06)*

## 6.18 STIPULATION TO MEDIATION AND **MEDIATION STATEMENTS**

(a) At any time after the filing of the complaint and before the first case management conference, if all parties stipulate that the case be assigned to mediation, the case shall be assigned to mediation. Where parties stipulate in writing to mediation in advance of the case management conference upon completion of the required ADR forms, a mediator may be *chosen from the “party select” panel or* randomly ~~selected~~ *assigned* from the ~~Court ADR~~ *“random select”* panel (see **Local** Rule 6.4) either by personal appearance of counsel at the ADR Office, or by phone. In the alternative, the parties may use a mediator of their own selection not on the Court’s panel.

*Within fifteen (15) calendar days after selection or appointment of the mediator, the parties shall agree on a date for mediation acceptable to the mediator. Should the parties fail to do so, the mediator shall select a date for mediation in accordance with California Rule of Court 3.876 (c) and notify the parties and the ADR Program Coordinator of the selected date, subject to the mediator’s ability to change the selected date for good cause.*

*(b) Parties must prepare and give information about their case to the mediator and other parties at least five (5) court days before the mediation hearing. Parties may use the local court form entitled Mediation Statement [RUL-6-ADR.010] or write this information on their own paper. Mediation statements must not be longer than five (5) pages and must contain the following information:*

- 1. The name and title (or relationship to the case) of all people who will attend mediation;*
- 2. A list of people connected with other parties who, if present at mediation, might improve the chances of settlement;*
- 3. A brief statement of the important issues, and the party’s views on liability and damages;*
- 4. A list of legal or factual issues that, if narrowed or resolved early, would promote settlement;*
- 5. A brief description of the history and status of any settlement negotiations; and,*

**6. Copies of any court or other documents that will help the mediator understand the issues in dispute.** *(Effective 1/1/06, as amended 7-1-10)*

**6.19 DISCOVERY DURING MEDIATION**

During the period that a matter has been referred to mediation, the parties are urged to exercise restraint with respect to conducting discovery. In an appropriate case, a protective order pursuant to Code of Civil Procedure section 2017.020 and related provisions may be issued by the Court. *(Effective 1/1/06)*

**6.20 MEDIATORS**

(a) The Court will maintain a ~~roster~~ **two-tiered panel** of court-approved mediators referred to as the ~~Court ADR Panel~~ **“random select” panel and the “party select” panel.** ***To be eligible to serve on the Court’s mediation panel, mediators are required to submit an application to the Supervising Judge of the Civil Division that shows evidence of the following: Mediators are required to show evidence of:***

- 1. All mediators on the “random select” panel shall have completed at least twenty-five (25) hours of formal mediation training by a recognized mediation training/education provider.***
- 2. To be eligible to serve on the “party select” panel, the mediator shall have completed at least twenty-five (25) hours of formal mediation training and have participated in a minimum of fifteen (15) court-connected mediations from any Superior Court with a minimum hearing time of two (2) hours each. Mediators who have previously met this requirement through prior service on the Court’s mediation panel will be eligible.***
- 3. To remain eligible to serve on the “party select” panel, all mediators shall agree to mediate not less than two (2) pro bono cases per calendar year with a minimum hearing time of three (3) hours each.***

~~1) At least thirty (30) hours of mediator training; and~~

~~2) (b)~~ After acceptance on the **“random select” or “party select”** panel, ***all mediators must complete four 4 hours of continuing education bi-annually in an ADR course approved by a continuing education provider and provide proof to the Court.***

~~(b) (c)~~ All ~~Court Mediators~~ **Court-approved mediators** must agree to conform to California Rules of Court ~~1620 through 1622~~ **3.850 through 3.868;**

~~(e) (d)~~ Non-Panel Mediators may be utilized. However if the parties choose to use a non-panel mediator, the judge must authorize a non-panel mediator at the time of referral and the parties shall be responsible for the mediator's compensation. *(Effective 1/1/06, as amended 7-1-10)*

**6.21 FAILURE TO PARTICIPATE IN MEDIATION**

If the Court finds that any party has not participated, in good faith, in Mediation or has otherwise failed to comply with this rule, sanctions may be imposed. *(Effective 1/1/06)*

#### 6.22 CIVIL MEDIATOR COMPLAINT PROCESS *(Effective 1-1-10)*

(A) Complaints concerning Court Approved Civil Mediators shall be dealt with as follows:

1. Parties and/or attorneys desiring to file a complaint regarding the mediation process or an individual mediator may submit a written complaint to the ADR Administrator, who will send the complainant a written acknowledgement that the Court has received the complaint.
2. If warranted, the Mediator will be given notice of the complaint and an opportunity to respond pursuant to CRC 3.869. The complaint will be investigated and a recommendation concerning court action on the complaint will be made by the Presiding Judge or his/her designee.
3. Within twenty (20) working days of receipt of the complaint, the Court will send the complainant notice of the final action taken by the Court on the complaint pursuant to CRC 3.869(e).

*(Effective 1/1/06, as amended 1-1-07, as amended 1-1-10, as amended 7-1-10)*